

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MYRTIS PAULO HART,

Plaintiff,

vs.

No. CV 20-01141 MV/JFR

FEDERAL BUREAU OF INVESTIGATION,
CENTRAL NEW MEXICO CORRECTIONAL FACILITY,
CURRY COUNTY ADULT DETENTION CENTER,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Rule 41(b) of the Federal Rules of Civil Procedure on the Complaint for Violation of Civil Rights (“Complaint”) filed by Plaintiff Myrtis Paulo Hart on November 4, 2020. [Doc. 1]. For the reasons set forth herein, the Court will dismiss the Complaint without prejudice.

Plaintiff filed the instant civil rights proceeding under 42 U.S.C. § 1983, *see* Doc. 1, but did not pay the filing fee or submit an application to proceed without prepayment of fees or costs, as required by 28 U.S.C. § 1915. On November 6, 2020, the Court entered an Order (the “First Order”) directing Plaintiff to cure these deficiencies within 30 days, either by paying the filing fee or by submitting an application to proceed *in forma pauperis*. Doc. 3. The First Order advised Plaintiff that, if he failed to cure the deficiencies within the 30-day time-period, the Court could dismiss this proceeding without further notice. *Id.* at 2. The Court also sent Plaintiff the proper form for submitting an application pursuant to § 1915.

Plaintiff submitted his Application to Proceed in District Court Without Prepaying Fees or Costs (the “Application”) on December 6, 2020. Doc. 5. On March 18, 2020, the Court entered

an Order (the “Second Order”) granting Plaintiff’s Application and directing him, within 30 days of entry of the Second Order, either to make an initial partial payment of the filing fee in the amount of \$33.96 or show cause why he should be excused from doing so. Doc. 7.

On March 1, 2020, Plaintiff filed a Notice advising the Court of a change of address. Doc. 6. After that date, however, mail sent to Plaintiff at the new address was returned to the Court as undeliverable. Docs. 8, 9. Accordingly, on April 20, 2021, the Court entered an Order (the “Third Order”) directing Plaintiff to show cause within 30 days why the Complaint should not be dismissed for failure to keep the Court advised of his correct address. Doc. 10. The Third Order notified Plaintiff that, if he did not show cause within the 30-day time-period, the Court could dismiss the case without further notice. *Id.*

More than 30 days has elapsed since both the Second Order and the Third Order. Plaintiff has not made the initial partial payment as required under § 1915(b), showed cause why he should be excused from making the payment, showed cause why this case should not be dismissed for failure to keep the Court advised of his correct address, or otherwise communicated with the Court.

The Court may dismiss a proceeding under Rule 41(b) for failure to comply with statutes or rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Pro se litigants are also required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). Here, Plaintiff did not comply with the Court’s Second Order or Third Order. Further, Plaintiff was required under Local Rule 83.6 to keep the Court advised as to his current address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6. As the copy of the Third Order sent to Plaintiff at his address of record has been returned to the Court as undeliverable, it is clear that Plaintiff has not met his obligation to keep the Court apprised of his proper mailing address

and has not communicated or maintained any contact with the Court. Accordingly, the Court will dismiss this proceeding for failure to comply with 28 U.S.C. § 1915, Rule 83.6, and the Second and Third Orders, and for failure to prosecute this proceeding.

IT IS ORDERED the Complaint for Violation of Civil Rights filed by Plaintiff Myrtis Paulo Hart (Doc. 1) is **DISMISSED** without prejudice pursuant to Rule 41(b).



MARTHA VÁZQUEZ
UNITED STATES DISTRICT JUDGE